IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 263 OF 2007
IN
APPEAL FROM ORDER NO. 98 OF 2007

SHRI. BHAGIRATH PANDHARINATH GAONKAR ... Applicant

Versus

SHRI. GOKULDAS SURYA GAONKAR AND 8 ORS., ... Respondents

Mr. S. D. Lotlikar, Senior Advocate with Ms. Sapna Mordekar, Advocate for the applicant.
Mr. S. M. Walawaikar, Advocate for respondents No. 1 to 4.
Mr. Manish D. Salkar, Advocate for the respondents No. 5 to 9.

Coram:- R. S. MOHITE, J.

Date:- 1st November, 2007

P.C.

Heard both sides. From the facts of this case, it is clear that an election to the Managing Committee of Shri Devi Bhumica Devasthan, Chopdem has been held on 11/2/2007. Respondents No.1 to 4 have filed an appeal challenging the election dated 11.2.2007. The said appeal is pending before the Administrative Tribunal. It appears that during the pendency of the said appeal, an order was passed by the Mamlatdar, who is also the Administrator of the Devasthan, acting under Article 43 of the Devasthan Regulation. This order is in consonance with the observations of his representatives who were present during the election held on 11.2.2007.

2. It is seen that even earlier to the passing of the order by the Mamlatdar dated 13.6.07, on 29.3.07, the Collector passed an order against handing over of charge. That was, however, withdrawn by a

statement made in the Writ Petition No.211/2007, which was also filed by the present appellant in this case. No doubt, respondents No.1 to 4 were not parties to Writ Petition No.211/07, however, it appears they had filed an intervention application. The said intervention application came to be withdrawn because the petition itself came to be withdrawn.

3. Apart from this, prima facie, there is no bar in the Mamlatdar issuing an order under Article 43 of the Devasthan Regulation and he is not precluded from issuing such an order merely because an appeal has been filed before the Administrative Tribunal, challenging the election dated 11.2.07. Respondents No.1 to 4 claims to have been elected in a general body meeting held on 25.2.07. On perusal of the Regulation, it appears that under Article 40, statutory date has been fixed for holding an election. I have not been shown any provision under which the old Managing Committee can hold an election after the period of term has expired and beyond the statutory date fixed by the Devasthan Regulation for election of a new committee.

4. In the circumstances, there will be an interim relief in terms of prayer clause (A). However, in case respondents No.1 to 4 succeed in their appeal, which is pending before the Administrative Tribunal and the election dated 11.2.2007 is set aside, then they will be at liberty to move this Court for vacating the stay and for further reliefs. The Mamlatdar is directed to implement his order dated 13.6.07.

Advocate for respondents No.1 to 4 seeks stay of this order for a period of two weeks. The Mamlatdar will implement his order dated 13.6.07 after a period of two weeks. However, in the meanwhile, respondents No.1 to 4 and any other person claiming to be in the management of the Devasthan will not expend any money from the Devasthan funds, except for day today expenses.

It is made clear that in the pending appeal before the Administrative Tribunal in which the election dated 11.2.07 has been

challenged, the Tribunal shall proceed without, in any way, being influenced by the observations which are made in this order and the said appeal will be decided on the basis of the contentions raised by the parties therein. Application disposed off. An authenticated copy of this order, be issued to respondents No.1 to 4.

R. S. MOHITE, J.

ssm.